

ORDERS ON IA FILED UNDER ORDER VII RULE 11 [B] & [C]
R/W SEC. 151 OF CPC

1. This present IA filed by the 4th defendant praying that to reject the plaint, the 4th defendant has sworn an affidavit alongwith this IA and avvred that the plaintiffs have locus standi to file the present suit, since, this court has no pecuniary jurisdiction to try the present suit. Further avvred that as per guildelines passed by the Government of Karnataka the value of the suit schedule property is more than Rs.1,20,00,000/- (One Crore, Twenty Lakhs Rupees), the alleged value of the plaintiffs share is more than Thirty Lakhs. Hence, he prayed to reject the plaint, as this court has no pecuniary jurisdiction to try the present suit.

2. On the other hand, the learned counsel for the plaintiffs has filed objections and contended tha the suit is properly valued, the present application is filed just to drag on the proceedings. Further contended that the present suit filed by the plaintiff is for the relief for the partition in the year 2019. As on the date of the filing of this suit this court is having jurisdiction having upto Rs.5,00,000/-, the each plaintiff's share over the suit schedule property is Rs.4,67,500/- and this court has got the pecuniary jursdiction to try the present suit. In support of this contention he has produced the certified copy of the guidelines issued by the Government of Karnataka.

Heard both sides. Perused materials available on record.

3. On the following points would arrises for this court consideration:

1. Whether the applicant/4th defendant has made out sufficient grounds to allow the present application?

2. What Order?

This court is answered the above points as under:

Point No.1: In the Negative
Point No.2: As per the final order

For the following:

REASONS

4. **Point No.:1** The present suit is filed for the relief of partition and separate possession. It is the specific contention of the 4th defendant that as per the guidelines value of the Karnataka Government, the value of the suit schedule property is more than Rs.1,20,00,000/- (One Crore Twenty Lakhs Rupees) as such this court has no pecuniary jurisdiction to try the present suit. On the other hand, learned counsel for the plaintiff filed objections and strongly contended that the plaintiff's share over the suit schedule property is only Rs.4,67,500/- (Four Lakhs, Sixty Seven Thousands Five Hundred Rupees) Hence, he argued that this court has got jurisdiction to try the present suit.

5. Before advertng to the material available on record it is worth to refer an order passed by the **Hon'ble High Court of Karnataka reported in 2017 [Part 4] KCCR Page No.2955 in Write.Pet.No.38162/2014 between Sneha Poojari V/s Kamala Poojarthi and others** wherein the Hon'ble High Court is held as under **"It is well settled law that the plaint can not be rejected exercising the powers under Order 7 Rule 11[a], [b] and [c] only on the basis of the written statement filed by the 1st defendant."** it is further held that **"it is always open for the petitioner to raise a priliminary issues with regard to jurisdiction before the trial court and the trial court consider the same and pass orders in accordance with law."**

6. Thus it is crystal clear that the plaint can not be rejected on the basis of the application filed Under

Order 7 Rule 11 [a], [b] and [c]. On perusal of record it could be seen that the 4th defendant has not filed written statement, in the absence of his written statement this court can not consider the present application. However, it is open to the 4th defendant to file written statement and raise the plea regarding the same. Therefore, in view of the afore said order passed by the Hon'ble High court of Karnataka and having regard to the facts and circumstances to the present case, this court finds no merit to allow the present IA. Therefore, this court to proceed the following:

ORDER

**Applications filed by the defendant
No.4 Under Order VII Rule 11 [b] and [c]
R/w 151 of CPC is hereby rejected.**

Call on: 14.06.2019

**Addl. Civil Judge & JMFC.,
Hosakote.**